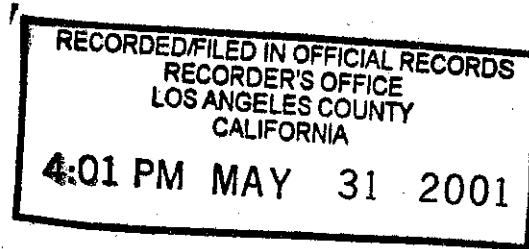




LEAD SHEET

1702
1
01 0946641



SPACE ABOVE THIS LINE FOR RECORDERS USE

TITLE(S)

FEE

D.T.T.

FEE \$19	HH
DAF \$2	
C-20	5

CODE

20

CODE

19

CODE

9

Assessor's Identification Number (AIN)

To Be Completed By Examiner OR Title Company In Black Ink

Number of Parcels Shown

C. Roger Baker, Planning

THIS FORM IS NOT TO BE DUPLICATED

RECORDING REQUESTED BY
AND WHEN RECORDED
MAIL TO

City Clerk
City of Burbank
P.O. Box 6459
Burbank CA 91510

01 0946641

9935458-77

Space Above This Line for Recorder's Use

MEMORANDUM OF MINOR AMENDMENT TO THE DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF BURBANK AND
ZELMAN RETAIL PARTNERS, INC.

THIS MEMORANDUM OF MINOR AMENDMENT to the Development Agreement for Planned Development No. 97-3 (the "Minor Amendment") entered into this 30 day of may, 2001, by and between the City of Burbank, a Charter City and a municipal corporation (hereinafter referred to as the "City") and ZELMAN RETAIL PARTNERS, INC., a California corporation (the "Developer") with reference to the following:

A. City and Developer entered into a Development Agreement in conjunction with Planned Development No. 97-3 on the 21st day of September 2000 which became effective on October 17, 2000, relating to the development of the "Burbank Empire Center." The Burbank Empire Center is comprised of several subareas as defined in the Development Agreement.

B. The Development Agreement in Section 5.01 specifically authorizes the City's Community Development Director to execute a minor amendment to the Development Agreement when the Director finds that the amendment is both minor and consistent with the Project Approvals, as that term is defined in the Development Agreement.

C. Developer and City desire to enter into this minor amendment as to Subarea B only, to clarify the definition of an "extended stay hotel" use, which is a permitted use in that Subarea. The definition set forth herein is found to be minor and consistent with the Project Approvals, for the following reasons.

D. The use list attached to the Conditions of Approval in the Development Agreement states that "hotel including incidental commercial uses" is a permitted use in Subarea B. No specific definition of "hotel", nor of any of the listed

uses is provided for in the Development Agreement. Condition of Approval No. B-1 states: "A maximum of 350 hotel rooms, *which may be extended stay*, will be permitted in Subarea B. ..." (emphasis added) (Conditions of Approval, B-1).

E. As a planned development zone, the City is authorized to establish any permitted use in that zone as long as such use is identified in the development agreement as permitted (BMC Sec. 31-19122).

F. Burbank Municipal Code Section 31-203 defines hotels as "...a building, or portion thereof, containing public guest or dormitory rooms without cooking facilities, used or designed to be used by guests for compensation." An extended stay hotel is not defined in the Burbank Municipal Code ("BMC"). A definition of such use has been discussed in other projects to be a hotel that allows cooking facilities in the rooms, or, in other words, "a building, or portion thereof, containing public guest or dormitory rooms **with cooking facilities**, used or designed to be used by guests for compensation". As evidence of such usage, in 1998, the City Council approved Planned Development No. 97-4 to the then owner, Homestead Village. In that Planned Development, the applicant was authorized (and is presently constructing) an "extended stay hotel". Such project provides kitchen facilities in the hotel rooms. In that Planned Development conditions of approval, Section 31-207 of the BMC was cited only to emphasis that an extended stay hotel meant a hotel as defined in the BMC but with the deletion of the prohibition of cooking facilities. In that project's staff report to Planning Board and City Council, the hotel was repeatedly referred to as an "extended stay hotel". The Council recently approved another extended stay hotel project, Planned Development No. 99-4 in January, 2000, which permitted a 253 room full service "Marriott extended stay hotel". In that project, no definition of extended stay was provided. It is the position of the City that an extended stay hotel is as mentioned, a hotel (as defined in BMC Section 31-203) but with cooking facilities in the guest rooms.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, the parties hereto agree as follows:

1. The term "extended stay" hotel, which is a permitted use in Subarea B, is defined as follows: An extended stay hotel means: "a hotel, which is a building, or portion thereof, containing public guest or dormitory rooms, used or designed to be used by guests for compensation, with the following: 1) offering one or more hotel services; and 2) providing kitchen facilities of any nature in any or all of the guest rooms.

2. The terms and provisions of this Minor Amendment shall control and govern the rights, duties, and obligations of the parties. Except as modified and amended herein, the Development Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, this Minor Amendment to the Development Agreement has been executed by the parties as of the 30 day of May, 2001.

"CITY"

CITY OF BURBANK, a charter city
and a municipal corporation

By: Susan Georgino
Susan Georgino, Community
Development Director

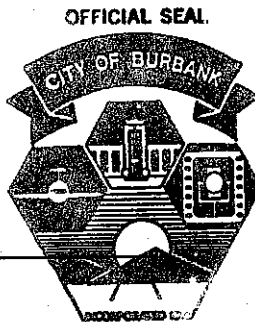
"DEVELOPER"

ZELMAN RETAIL PARTNERS, a
California corporation

By: Ben Riley
PRESIDENT

ATTEST:

Judie Sarquiz
Judie Sarquiz, City Clerk



[Signature of Parties must be notarized as required by the
County Recorder's Office. Please attach appropriate
acknowledgements.]

APPROVED AS TO FORM FOR CITY
Dennis A. Barlow, City Attorney

Mary F. Riley
By: Mary F. Riley, Sr. Asst. City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Los Angeles

} ss.

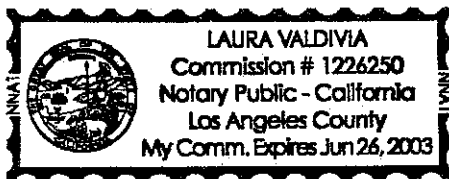
On 5-30-01, before me, Laura Valdivia, Notary Public

Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Bernard Reiling

Name(s) of Signer(s)

☐ personally known to me☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Laura Valdivia
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Mindr Amendment to Dev. AgmtDocument Date: 5-30-01 Number of Pages: 3Signer(s) Other Than Named Above: Susan Georgino

Capacity(ies) Claimed by Signer

Signer's Name: Bernard Reiling☐ Individual☒ Corporate Officer — Title(s): President☐ Partner — ☐ Limited ☐ General☐ Attorney in Fact☐ Trustee☐ Guardian or Conservator☐ Other: _____Signer Is Representing: Zelman Retail PartnersRIGHT THUMBPRINT
OF SIGNER

Top of thumb here

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

} ss.

On May 30, 2001, before me, Sharon Marotta, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")personally appeared Susan Georgino

Name(s) of Signer(s)

- ☒ personally known to me
☐ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Sharon Marotta
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Memorandum of Minor Amendment to the Development Agreement by and between the City of Burbank and Zelman Retail Partners
 Document Date: May 30, 2001 Number of Pages: 3

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by SignerSigner's Name: Susan Georgino

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☒ Other: Community Development Director

Signer Is Representing: City of Burbank

RIGHT THUMBPRINT
 OF SIGNER
 Top of thumb here